

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TAKEDA PHARMACEUTICAL COMPANY)	
LIMITED, a Japanese Corporation, and)	
TAP PHARMACEUTICAL PRODUCTS INC.,)	
a Delaware Corporation,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 08-339 (SLR)
)	
BARR PHARMACEUTICALS, INC.,)	
a Delaware Corporation, and)	
BARR LABORATORIES, INC.,)	
a Delaware Corporation,)	
)	
Defendants.)	

PLAINTIFFS' REPLY TO BARR LABORATORIES, INC.'S COUNTERCLAIM

Plaintiffs-Counterclaim Defendants Takeda Pharmaceutical Company Limited (“Takeda”) and TAP Pharmaceutical Products Inc. (“TAP”), by their undersigned attorneys, herein reply to the Counterclaim of Defendant-Counterclaimant Barr Laboratories, Inc. (“Barr”) as follows:

62. Plaintiffs admit that Barr’s Counterclaims purport to arise pursuant to Title 35 U.S.C. and 28 U.S.C. §§ 2201 and 2202. Plaintiffs admit that Barr purports to invoke the jurisdiction of the Court pursuant to 29 [sic] U.S.C. §§ 1338 and 2201. Plaintiffs admit that venue is proper in this Court.

63. Plaintiffs admit that they have filed a Complaint and hereby repeat and reallege each and every allegation contained in the Complaint and admit that a justiciable controversy exists between the parties hereto with respect to infringement and validity of certain claims of U.S. Patent Nos. 5,464,632, and 6,328,994.

The Parties

64. Upon information and belief, Plaintiffs admit the allegations in paragraph 64 of Barr's Counterclaims.

65. Plaintiffs admit the allegations in paragraph 65 of Barr's Counterclaims.

66. Plaintiffs admit the allegations in paragraph 66 of Barr's Counterclaims.

The Controversy

67. Plaintiffs admit the allegations in paragraph 67 of Barr's Counterclaims.

68. Plaintiffs admit the allegations in paragraph 68 of Barr's Counterclaims.

69. Plaintiffs admit the allegations in paragraph 69 of Barr's Counterclaims.

70. Upon information and belief, Plaintiffs admit the allegations in paragraph 70 of Barr's Counterclaims.

71. Upon information and belief, Plaintiffs admit the allegations in paragraph 71 of Barr's Counterclaims.

72. Plaintiffs admit the allegations in paragraph 72 of Barr's Counterclaims.

COUNT ONE

(Alleged Non-Infringement of the '994 Patent)

73. Plaintiffs repeat and re-allege their responses to paragraphs 62-72 of Barr's Counterclaims as if fully set forth herein.

74. Plaintiffs deny the allegations in paragraph 74 of Barr's Counterclaims.

COUNT TWO

(Alleged Invalidity of the '994 Patent)

75. Plaintiffs repeat and re-allege their responses to paragraphs 62-74 of Barr's Counterclaims as if fully set forth herein.

76. Plaintiffs deny the allegations in paragraph 76 of Barr's Counterclaims.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs seek the following relief:

- A. An order dismissing Barr's Counterclaims with prejudice and denying each and every Prayer for Relief sought by Barr;
- B. An order granting each and every Prayer for Relief sought by Plaintiffs in the Complaint;
- C. A declaration that this is an exceptional case, and an award of attorneys' fees from Barr in this action pursuant to 35 U.S.C. § 285;
- D. An award of costs and expenses of Plaintiffs in prosecuting its affirmative claims and in defending Barr's Counterclaims; and
- E. Such further and other relief as this Court determines to be just and proper.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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July 17, 2008

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CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2008, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF which will send electronic notification of such filing to the following:

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Additionally, I hereby certify that true and correct copies of the foregoing were caused to be served on July 17, 2008, upon the following individuals in the manner indicated:

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